REPORT TO JERSEY'S ATTORNEY GENERAL FOLLOWING THE POLICE PUBLICLY OBJECTING TO THE OBSTRUCTION OF THE CHARGING OF SUSPECTS AGAINST WHOM SUFFICIENT EVIDENCE WAS PRESENT.

STATES OF JERSEY POLICE REPORT

Submitted by: DCO L. Harper

Submitted to: Chief Officer (For onward transmission to Attorney General.)
MIR Office Manager (For Registration and filing on HOLMES System.)

Chief Officer:

The Attorney General has requested a report into the circumstances and reasons for the issue of the Media Statement following the release from Custody of Mr and Mrs Bonner who were arrested by the Historical Abuse Team for three Grave and Criminal Assaults. The reasons for the release however, do not start with the arrest of the Bonners and are outlined in full below.

On 9th April 2008 I met with the AG in the presence of yourself. This meeting was to discuss the provision of Legal Assistance to the Historical Abuse Enquiry. The Attorney General was keen to appoint an independent lawyer to assist the enquiry "in order to prevent you from barking up the wrong tree at an early stage." There was some discussion over his wish to have the lawyer placed within the Incident Room. I, ACPO, and others saw this as a highly unusual step, and objected to that situation.

Eventually a compromise was reached and Mr Simon Thomas was appointed and given an office in Police Headquarters. Agreement was reached with him, Cyril Whelan, and Stephen Baker that, in a departure from normal practice, we would not arrest suspects whom we hoped to charge until we had submitted a file of evidence to the lawyers and they would then guide us on what charges could be preferred. This was to prevent us from having to arrest a string of suspects and release them whilst the report was being considered. We were reassured that the turnaround in the files would be very quick in order not to delay the process of arrest and charge.

The service that we have received from the legal team has not been as we were led to believe it would be. Since his arrival in mid April we have given Mr Thomas six files. The file for the Bonner case, which was a straight-forward file containing only a small number of statements was handed to him in early June. There followed a number of meetings between himself, the Deputy SIO, the Detective Sergeant Team Leader, and the two investigators in charge of that particular enquiry. During these meetings the evidence was discussed and on Friday 20th June 2008 the Detective Sergeant and the two investigators met with Mr Thomas. It was agreed that the Bonners should be arrested and charged with three crimes of Grave and Criminal Assault. As always, it was accepted that this was subject to any significant changes in the evidence against them following interview or the arrest process. All three officers are certain of the instructions given to them by Mr Thomas and recall clearly the discussions about the difference between the different types of assault and the directions given in relation to charging.

The Bonners were arrested on Tuesday 24th June 2008. Mr Bonner was interviewed first. He denied the offences but offered nothing which changed the evidence against him or his wife. Mrs Bonner

feigned illness but was declared fit by the Doctor.

At 5pm Simon Thomas declared to the investigators that he had revised his view and said he did not want the couple charged. The officers were extremely surprised and not a little frustrated. I spoke to Simon who, it transpired, was between trains and on a railway station platform somewhere in the North of England. Indeed, as we spoke the conversation was frequently interrupted by passing trains. He said he had revised his opinion because of new evidence that had emerged during the day. I asked what that evidence was and he gave me three "developments."

1. 1. Mrs Bonner was unwell. I explained the situation in respect of her and that the Police Doctor thought she was feigning. I explained that she was obtaining the woman's medical notes and would further advise at 6.30pm. In the event, the Doctor declared the suspect fit for detention and interview. I questioned however, whether this could be said to be new evidence which affected the decision to charge.

2. Simon then told me that a witness called Drake had rung the Custody Officer and said we had made a mistake, and that we had the wrong people in custody. I pointed out that Drake had made a witness statement which Simon had seen and which he had taken into account when recommending which charges should be preferred. Drake had not added any new evidence to what was in his statement.

3. The Bonners' children had telephoned and said their parents were good people and that they (the children) were now flying to Jersey. I asked Simon how that was new evidence as opposed to character evidence, and he said that they might have evidence relevant to the allegations as they lived in the same house. I pointed out that he knew that previously and also that they lived in a different part of the house.

Simon then said he needed to speak to Cyril Whelan and Stephen Baker who were in Jersey. He did so and telephoned back. He said they agreed with him and wanted to see the interviews before charging. I pointed out that this made the arrangement we had pretty worthless - what was the point of us sending him the file before arrest if he still had to wait to see the interview notes? The idea was that he told us the charges before we released suspects. He then said that he could not do that as things might change during the interview. He said we arrested on suspicion and then interviewed and he decided on charges afterwards. I made the point that we had all agreed that we would not arrest until we had given him the papers and this was to allow us to be given suitable charges to prevent the process of arrest and release. He said that things could always arise during interview. I accepted that occasionally that could happen but that in the absence of anything dramatic, the agreed charges would normally still be relevant. I pointed out that he had met the officers in this case and the Deputy SIO on several occasions and that just before arrest there had been discussion on the charges and he had agreed three G&C assault charges. He said that was not correct. All four of our staff, DI Fossey, DS Smith, and the two UK detectives were frustrated at this development as their recollection was he had clearly agreed with them this course of action. I told Simon that if these two were not charged I was not having the Enquiry Team officers blamed for it. He finished by saying that operationally he could not tell me whether to charge or not.

In view of that comment, I told the officers to get the Centenier in to PHQ to charge. They did so. Danny Scaife came in, Andy Smith gave him the full facts including the discussion with the lawyer, and Danny went off to read the evidence. He did so for well over an hour and then declared that although there was enough evidence to charge, he was not going to.

At that stage I told Louise Nibbs to put the Press Release out. It avoided comment and stuck to the facts. In answer to the Attorney General's question, the following are the reasons I put it out.

Simon Thomas commented this week that he was anxious there should be no perception that the decisions to charge or not to charge suspects were being made under improper influence of factors other than evidence. I made the point to him, and make it again, that he and others do not seem able to grasp the fact that this perception is already there among the victims. They feel that the decisions are, and have been made in the past, on many factors other than the evidence. It is the need to avoid this perception that was uppermost in my mind in releasing the factual Media statement that evening.

One of the most heartening features of this enquiry has been the trust placed in the officers by very vulnerable victims and witnesses. This is despite them being on many occasions very badly let down by a number of agencies when they have previously tried to report crimes against them. This trust has been based on a foundation of openness and transparency together with an obvious determination to get to the truth. It is in marked contrast to the total contempt that the victims hold the Attorney General and his office in. So suspicious of that office are they, that many victims remain sceptical about the possibility of ever bringing the people who abused them to justice. The need to overcome the doubts victims had about the States of Jersey Police was one of the reasons why we agreed the policy of not arresting anyone until we had submitted the file to the lawyer working with us. In this way we avoided the scenario, seen so often in the UK, of a succession of suspects being brought into custody and then released without charge.

Such a scenario in this case would have damaged the credibility of the investigation and risked us being placed in the same category as those agencies the victims do not trust. This is illustrated by a briefing I have had from the NSPCC Counsellor working alongside us. He has received a text message from a victim (which he has showed me) to say "It is a joke. Another two walk away. No wonder no one will come forward." Here is an illustration of the need for us to maintain our distance and our independence from the office of the Attorney General, and a stark reason for the release.

However, the agreement mentioned above has not worked as planned or indeed promised. Files have been submitted, some of them not very complex and indeed, no more complicated than the normal type file dealt with on a daily basis by the PPU. The time to turn them around by the legal team has been frustratingly long. There is no intention to criticise the ability of the "dedicated" lawyer here, but it is obvious that he has a number of commitments in the UK which makes it difficult for him to be here. The debacle over the Bonner case is one example. As stated above, the officers concerned are adamant that they were given the go ahead to charge; subject to the usual conditions that nothing significant occurred during the arrest process or interviews. If this had not been the case, no arrest would have been made. The actions of the UK lawyer himself hardly seem to corroborate the picture of someone giving serious consideration to an evolving investigation with prisoners in custody. Some UK and even Jersey law practitioners may find it rather bizarre that a lawyer found it acceptable to carry out such work on the platform of a busy railway station.

A further example of the poor service given to us is illustrated by the Maguire case. The importance of this case to our enquiry is obvious to all, including the media. The Deputy SIO and I have continually emphasised this to Simon Thomas.

We delivered the file to Simon on the 29th April. The investigators, the Deputy SIO, and I regularly asked him for progress reports. These were not really forthcoming even when he was in Jersey. I had to speak to a Jersey lawyer with experience of extradition to clarify one point. I then spoke to a CPS expert on Extradition to clarify something else in an attempt to speed things up. In mid June I was told by Simon that he and Cyril Whelan had almost finished the work on the charges. Then we were told that the AG had asked for full advice files on the facts and the law. We realised the need for this but were firm in seeking assurances from the lawyers that this would be done quickly. Stephen Baker, after some debate, undertook that the AG would be fully advised within seven days. That period expired last week and the investigating officers e mailed Simon Thomas in the UK and asked if it had been done. The reply from Simon Thomas was "I will answer this question next week."

This answer to a reasonable and sensible question beggars belief, and is another example of the shoddy and unprofessional service which we are receiving. To return to the question of perception, what sort of perception would this give to the public if they knew of it? Meanwhile, the Maguires remain in France, although we are told by the lawyers that our fear of them absconding is not supported by their information. This is despite that our intelligence comes from those who found them in the first place.

In summary, I issued the Press Release to explain to the public, but mainly the victims, why these two suspects had been released. I feel, as do the investigators, that we were badly let down by the legal advice delivered from afar. The three pieces of "new evidence", even to a police officer, were transparently no such thing. As the conversation unfurled it became obvious that even Simon Thomas did not truly believe that what he was describing to me was evidence. I could not work out, and am still unable to work out, what really did prompt the change of heart and the revision of the advice. I have refused to speculate on that but was determined that the States of Jersey Police would not be criticised for the decision. Subsequent events proved that this was a justifiable fear with the Deputy Home Affairs Minister describing to me how a number of members of the Council of Ministers were already gleefully talking about another "Police c*** Up" in bringing these suspects in and not charging them.

It is also probably pertinent to include some reference in this report to the expressed view of the Attorney General, and indeed the Minister, that the circulation list for this and other police press releases is "too wide and encourages wider comment." These comments show a distinct lack of awareness of dealing with the media in this type of situation. The list has evolved from the early days of the enquiry because when the first media releases were made, the Press Officer was immediately deluged with media outlets demanding to know why they had not received the release and asking why we were hiding it from them. Apart from an impression of reluctance to communicate, this heavy demand led to our phone systems being blocked, (at one point the Press Officer had 128 messages waiting), and caused unnecessary stress to our staff. It was also expensive in time and cost to send out a Press Release so many times, not to mention extremely unprofessional. Several weeks ago the Press Officer contacted everyone on the list and asked if she could take them off. Only three agreed and they are now removed.

Another aspect and implication of the Attorney General's comment which he might like to reflect on is what would happen if we did indeed cut our circulation list. When the inevitable questions arrived from the media all over the world and we told them that we had removed them from out list, they would without doubt ask why. When we gave the truthful answer that the AG thought it a good idea to curtail circulation and a wider coverage they just might, in the light of the many allegations of

cover up against his office, think that they had here positive evidence of the “wilful obstruction” which he was recently accused of. No matter how unjust that might be, it would be an obvious outcome.

Submitted for onward transmission to the Attorney General.

Leonard Harper, Deputy Chief Officer, Chief Officer, Document

Reader Major Incident Room (For Registration)
29th June 2008